

OCT 04 2011

FILED

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	CONSENT ORDER
PETITIONER,	)	
	)	
VS.	)	
	)	CAUSE NO. C-1913
AETNA LIFE INSURANCE	)	
COMPANY,	)	
	)	
RESPONDENT.	)	
	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Martin W. Swanson and Aetna Life Insurance Company, ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §44-101.01, §44-303 and Unfair Trade Practices Act, Neb. Rev. Stat. §44-1521 et seq., the Unfair Insurance Claims Settlement Practices Act, Neb. Rev. Stat. §44-1536 et seq., Nebraska's Health Carrier Grievance Procedure Act, Neb. Rev. Stat. §44-7301 et seq. and Title 210, Chapter 61 of the Nebraska Administrative Rules and Regulations.

2. Respondent is a Connecticut domiciled insurer licensed to conduct business in Nebraska as a foreign insurer at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Aetna Life Insurance Company, Cause Number C-1913 on August 31, 2011. A copy of the petition was served upon the Respondent by sending a

copy to Respondent's agent for service of process, and by sending a copy to Respondent's business addresses registered with the Department, by certified mail, return receipt requested.

2. Respondent violated Neb. Rev. Stat. §§44-1524, 44-1525(2), 44-1525(11) (on multiple occasions), 44-1539, 44-1540(1), 44-1540(2), 44-1540(3), 44-1540(4), 44-7308 and Title 210 NAC Chapter 61 §§004.02, 005.01, 007.01, 008.01, 008.02, as a result of the following conduct:

- a. On August 23, 2010, a Complaint was filed (10-1209) with the Department by a law student who disputed the conclusion made by Respondent who denied a claim for an abscessed tooth. Respondent denied the claim because the Creighton University Student Health Insurance Policy does not allow for dental benefits. However, the Complainant denoted that the policy did, in fact, cover his condition under a different portion of the policy and attempted to appeal the Respondent's decision of denial. Complainant met significant difficulty in his attempt to appeal and contacted the Department for assistance.
- b. On August 31, 2010, Scott Zager (Zager), an insurance investigator with the Nebraska Department of Insurance, contacted Respondent regarding the complaint and requested information that should have been sent by Respondent within fifteen working days to the Department.
- c. On September 20, 2010, Respondent provided a partial response to the Department's letter. In the letter, Respondent admitted that Complainant had attempted to contact Respondent several times to appeal the decision of denial. Respondent further admitted that they did not document receipt of an appeal, that their denial of the claim was in error, and that the claim for services should have been paid.
- d. On September 27, 2010, Zager sent a letter to Respondent indicating that the Department had asked for, but failed to receive from Respondent, copies of all claim correspondence in the August 31, 2010 letter. Zager had further questions for Respondent and reminded them that a response was due within fifteen working days.
- e. On February 22, 2011, Zager sent a letter to Respondent indicating that they have failed to respond within fifteen working days. In fact, the delay in responding to the Department totaled nearly five months.
- f. On March 24, 2011, Respondent admitted it had not responded to the Department's September 27, 2010 letter. Respondent further admitted that when it reviewed the claim, they were "unable to verify that an acknowledgement letter was sent between the receipt date [of the claim] and the date the claim was processed." Respondent indicated that the claim was processed within 45 days. Respondent could not "...identify the reason we did not follow our usual acknowledgement procedure in

this case.” Respondent further admitted they did not timely make a decision to provide coverage in this particular case. It was only after a lengthy appeal before coverage for the claim was provided. Respondent further admitted that it could not find emails within its company that discussed this claim.

- g. On April 1, 2011, Zager sent Respondent another letter based upon the responses in the March 24, 2011 letter. One of the questions asked by Zager was how many delays took place with regard to student plans in Nebraska.
- h. Respondent responded on April 21, 2011, and stated that 70 claims were acknowledged after more than 15 days and that 971 claims were without an acknowledgement letter. Respondent admitted that it did not follow established procedures for acknowledgment letters.
- i. Respondent further admitted in the April 21, 2011 letter that it failed to contact Complainant regarding the appeal of his claim and that Complainant was not advised of the outcome of the review. It further admitted that there was no follow up on a commitment by Respondent to initiate the appeal process on behalf of the Complainant. Respondent also admitted that it created significant confusion with regard to the appeal due to the actions of their staff.

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving their right to a public hearing, Respondent also waives the right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent does not admit or deny the allegations contained in Paragraph #2 above, however, Respondent agrees to settle this matter and pay the administrative fine of \$25,000 so that the parties can avoid the time and expense of resolving this case at an administrative hearing.


#### CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes violations of Neb. Rev. Stat. §§ 44-1524, 44-1525(2), 44-1525(11) (on multiple occasions), 44-1539, 44-1540(1), 44-1540(2), 44-1540(3), 44-1540(4), 44-7308 and Title 210 NAC Chapter 61 §§ 004.02, 005.01, 007.01, 008.0 and 008.02.

## CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Aetna Life Insurance Company, that they shall pay an administrative fine of \$25,000. The fine shall be paid in total within thirty days after the Director of the Department of Insurance affixes his signature to this document and approves said consent agreement. The Department of Insurance will continue to retain jurisdiction over this matter and shall prosecute any other violations for failure to comply with this Consent Order.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing their signature below.

  
Martin W. Swanson, #20795  
Attorney for Petitioner  
941 O Street, Suite 400  
Lincoln, NE 68508  
(402) 471-2201

Chris Wolff  
Aetna Life Insurance Company,  
Respondent

By: Ethan Waff

September 27, 2011  
Date

Date \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

On this 27 day of September, 2011, Eliese W. Hoff  
personally appeared before me, as an authorized representative of Aetna Life Insurance Company,  
and read this Consent Order, executed the same and acknowledged the same to be his/her voluntary  
act and deed.



Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the  
Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs.  
Aetna Life Insurance Company, Cause No. C-1913.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

Bruce R. Ramge  
BRUCE R. RAMGE  
Director of Insurance

10-4-2011  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at  
151 Farmington Avenue, Hartford, CT 06156-7003 by certified mail, return receipt requested on  
this 4<sup>th</sup> day of October, 2011.

Margaret L. Lukan

RECEIVED

DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

RECEIVED

SEP 29 2011

NEBRASKA DEPARTMENT  
OF INSURANCE